



The State Bar *of California*

OPEN SESSION AGENDA ITEM 41-1 JANUARY 2020

DATE: January 24, 2020

TO: Members, Board of Trustees

FROM: Donna Hershkowitz, Interim Executive Director

SUBJECT: Report from Executive Director

The annual January meeting of the Board of Trustees (Board) provides an important opportunity to review the State Bar's progress in implementing the objectives that are designed to move us closer to meeting the ambitious and important goals set forth in the Strategic Plan.

Each year, the Planning Session highlights select goals from the 2017-2022 Strategic Plan for an in depth analysis of what the State Bar is and could be doing to advance those goals. This year, the January 23 planning session brings focused attention on two of our Strategic Plan Goals:

- Goal 2 – Ensure a timely, fair, and appropriately resourced . . . discipline and regulatory system for the more than 250,000 lawyers licensed in California; and
- Goal 4 – Support access to legal services for low-and moderate-income Californians and promote policies and programs to eliminate bias and promote an inclusive environment in the legal system and for the public it serves. . . .”

At the same time, we continue to make progress on many of the objectives set forth in the Strategic Plan. The State Bar is poised to formally release two groundbreaking publications in our effort to increase access to the legal system and to ensure an inclusive and diverse attorney population. The first, the Justice Gap Study, is a compilation of several independent pieces of work conducted by the State Bar and its partners in this effort. It offers a stark view of the state's current ability to meet the legal needs of Californians. According to the study, 55 percent of Californians had at least one civil legal problem in 2018. But they sought legal help for only 30 percent of their problems, for reasons including the fact that they did not identify the problem as legal in nature, cost, fear of pursuing legal action, or not knowing how or where to seek help. The study also helped bring into focus the most common legal issues that arose, regardless of income level (health, consumer finance, and employment). The study also examines the cost of legal education in California and the impact that law school debt has on

the ability or willingness of law students to join the ranks of legal services attorneys fighting every day to improve access to justice.

The second publication scheduled for release in the coming months is a report card on the diversity of California's legal profession, which analyzes the vast data set we amassed as a result of the Attorney Census launched in January 2019. This report card identifies the significant underrepresentation in the attorney population of attorneys of color in comparison to the state population (Latinx, 7 percent of the attorney population; 35 percent of the California population; Black, 4 percent of the attorney population, 6 percent of the California population; and Asian, 13 percent of the attorney population, 15 percent of the California population). The data also tell us that the private sector is by far the least diverse and give us insight regarding the extent to which attorneys of color have been able to join the ranks of partner. We also directed questions at career satisfaction. While the publication of the state's first report card on diversity of California's legal profession will be an important milestone event, it comes in the midst of a host of activities demonstrating the State Bar's commitment to fulfilling its statutory responsibility to maintain our commitment to and support of effective policies and activities to enhance access, fairness, and diversity in the legal profession and the elimination of bias in the practice of law. Among other things, we have launched a second attorney census, with new questions informed by the Diversity Summit held in September, and we also just launched a survey for all attorneys who enrolled inactive in the past five years to try to understand the reasons for leaving the profession, to get a more in depth sense of career satisfaction and inclusion issues that impact retention in the profession. This data will inform the interventions we hope to develop to address issues of inclusion and diversity in the profession.

We also continue the day-to-day operations necessary for the functioning of the State Bar. On December 2, the annual licensee renewal cycle opened and firms and attorneys began paying the annual licensing fees. We have been working to finalize the 2020 budget, which will be discussed at the January meeting. The State Bar is completing a review of the test administration and security procedures and practices used for the development, administration, and grading of the Bar Examination, finalizing a study on the impact of the switch to a two-day Bar Examination, and completing a study to assess Bar Examination test questions from 2010 to 2019 to ascertain whether there are certain questions or question types on which examinees of different genders or racial/ethnic backgrounds perform differently.

With the close of 2019, we are pulling data that helps describe the performance of the Office of Chief Trial Counsel, while continuing to handle the not insignificant increase in complaints since the roll out of the online complaint system. At the same time, we are identifying needed improvements in the discipline Case Management System to create efficiencies and improve the day-to-day processing of the workload.

INTERIM EXECUTIVE DIRECTOR PRIORITIES FOR 2020

All of the work and activities outlined above can be summarized in six words: there is a lot being done. But there also remains a lot more to be done as the State Bar continues its efforts on the many innovative and forward-leaning initiatives begun under Leah Wilson's tenure. I

have conveyed to staff that my selection as the Interim Executive Director signals the Board's intention not to standstill, not to move backward, but to continue to march onward in our efforts to achieve our ambitious, important agenda. To that end, although I will of course lead the State Bar through all of the work we are doing, I plan to focus some real attention during my tenure as Interim Executive Director on the following:

- **Employee Engagement.** For the last three years we have conducted an employee engagement survey to get the direct input of the State Bar's most important resources—our staff—on how we are doing as an organization. This year's survey closes on January 31, and I will be reviewing the results with a keen eye to identify what the takeaways are and how that should impact our future actions to support the workforce. We have made many strides in the past few years, including implementing a training and development program to give staff opportunities to stretch and develop and demonstrate skills to move up the career ladder; rolling out telecommuting, up to two days per week; and providing a focus on more and better training opportunities. But the data from the past employee engagement surveys tell us that there is still much more to do. Following the analysis of the survey results, we will update the Employee Engagement Action Plan and make marked steps to implementing those items not yet implemented.
- **Customer Service.** The State Bar has made excellent strides in improving customer service with the professionalization of our call center. The call center staff ably handle issues including complaints about attorneys, questions about the process for applying to take the Bar Exam, understanding the fee statement or MCLE requirements, and many, many more topics. But customer service is something that must permeate all areas of the State Bar. And frankly, it is also a good lens through which to view the need to continue to advance the State Bar's relationship with our oversight bodies. I plan to work with leadership and staff to identify ways we can improve our customer service efforts, including providing timely and appropriately informative responses across all areas of the State Bar.
- **Access to Justice.** We have several important access to justice initiatives in the works, and we must see them through and advance them further. I am excited that Leah will continue working on the innovative approaches under consideration by the Task Force on Access Through Innovation of Legal Services (ATILS). The recommendations under consideration by ATILS have the potential to make a significant impact on how legal services are performed in California, and to increase access in the "PeopleLaw" sector. Additionally, we would be remiss if we did not grab the Justice Gap Study by the horns and push forward with what now has come into greater focus. The Justice Gap Study helps us identify areas of great need, both subject matter-wise and geographically. It tells us that the justice gap is wide, and it is not limited to those who are indigent. The State Bar has the great honor of distributing considerable funds to legal services organizations (over \$80 million in 2020), and we must evaluate how the Justice Gap Study can be used to better inform the allocation of those funds.

- **Stewardship of the State Bar Budget.** The State Bar received a significant fee increase for 2020. The Board and the State Bar leadership are fully cognizant that this increase represents only a portion of the funding actually needed to fully fund the State Bar. Nonetheless, the State Bar must be exceptional stewards of the licensing fees that we receive, and we must do so in a manner that adheres to the purposes for which the 2020 fee increase was granted. As good stewards of the fees, we must delve more deeply into the issue of capital improvements. As part of the 2020 fee increase, the State Bar sought a one-time increase of \$134 for capital improvements. We received a \$40 increase, spread over 10 years. The result is approximately \$800,000 per year to spend on capital improvements. At the same time, the request to reestablish a workable reserve was not fully satisfied, with only \$3 approved by the Legislature. The amount and structure of the funding over a period of years pose a real challenge, and with the Board, State Bar leadership must and will dig in to determine the next steps.

OCTOBER AND NOVEMBER 2019 METRIC PERFORMANCE

The October and November 2019 Metrics Report contains monthly metric data and is provided as Attachment A. Of the 13 metrics reviewed, performance targets were not met for the following 7 metrics:

- Metric OCTC-3, Maintain annual caseload clearance rate of 1.0 or higher
 - Target 1.0; October and November performance, .94 and .95 respectively.
- Metric OCTC-5A, Maintain current level of CRU reopens for reasons other than new evidence
 - Target 4 percent; October and November performance, 2 and 7 percent, respectively.
- Metric SBC-2A, Hearing Department: 90 percent of cases reach final outcome within timelines
 - Target 90 percent; October and November performance, 81 and 83 percent respectively.
- Metric SBC-2B, Hearing Department: All cases reach final outcome within 150 percent of timelines
 - Target 100 percent; October and November performance, 88 and 97 percent respectively.

The discipline metrics above will be addressed in the Regulation and Discipline Committee.

- Metric F-4, Process 100 percent monthly financial statements accurately and on time within 20 days of the close of the month
 - Target, 100 percent; October and November performance, did not meet.
- Metric HR-2, Performance evaluations processed within 30 days of due date

- Target, 100 percent; October and November performance, 63 and 77 percent, respectively

The metrics above will be addressed in the Finance Committee.

A brief explanation of the final performance metric that did not meet its target is provided below.

- Metric ARCR-2, External callers report a high level of overall satisfaction with call center experience
 - Target, 75 percent; October and November performance, 73 and 72 percent., respectively

Staff continues to work to improve performance on this metric and is within 2-3 percentage points of the goal. The unit has begun to revise telephone tree scripts consistent with recommendations made by a professional call center consultant and is planning on recording all scripts with a more engaging voice to help set the tone and expectations for callers.

At the March Board meeting, this report will include performance on the quarterly metrics for the fourth quarter of 2019, annual metrics for all of 2019, and monthly metrics for December 2019 and January 2020. We also continue to review the metrics we are reporting to ensure their efficacy in examining State Bar performance. I anticipate bringing in March a revised metric, for example, on the processing of moral character applications to better reflect how applications are processed through the Admissions Information Management System (AIMS).

ATTACHMENT(S) LIST

A. State Bar Metrics: October and November 2019

State Bar Monthly Metrics

October and November 2019

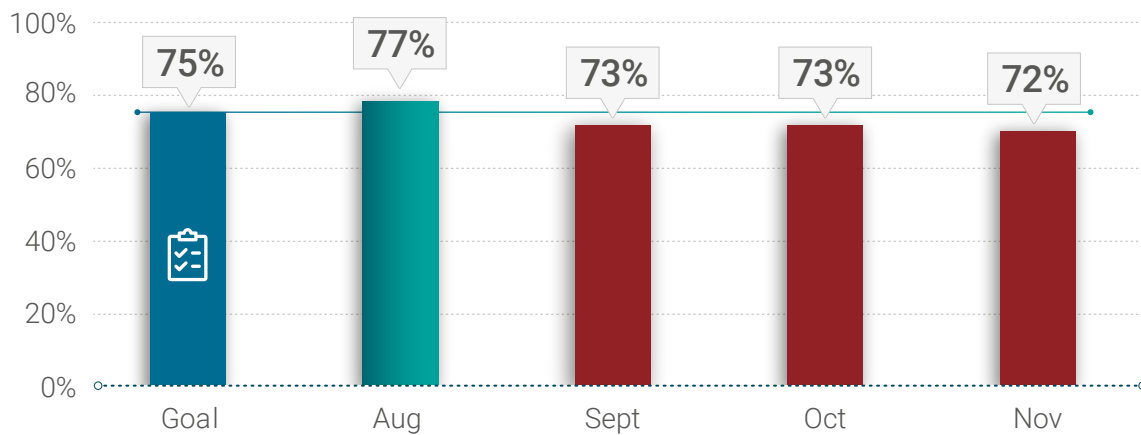


The State Bar of California



Callers report a high level of overall satisfaction with Resource Center experience

ARCR-2



F-4

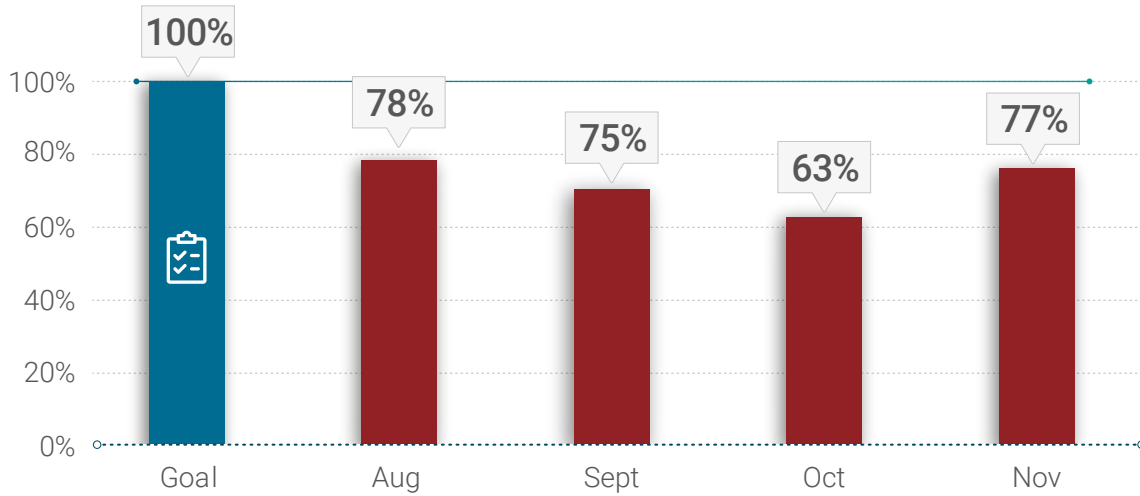
Process 100% monthly financial statements accurately and on time within 20 days of the close of the month.





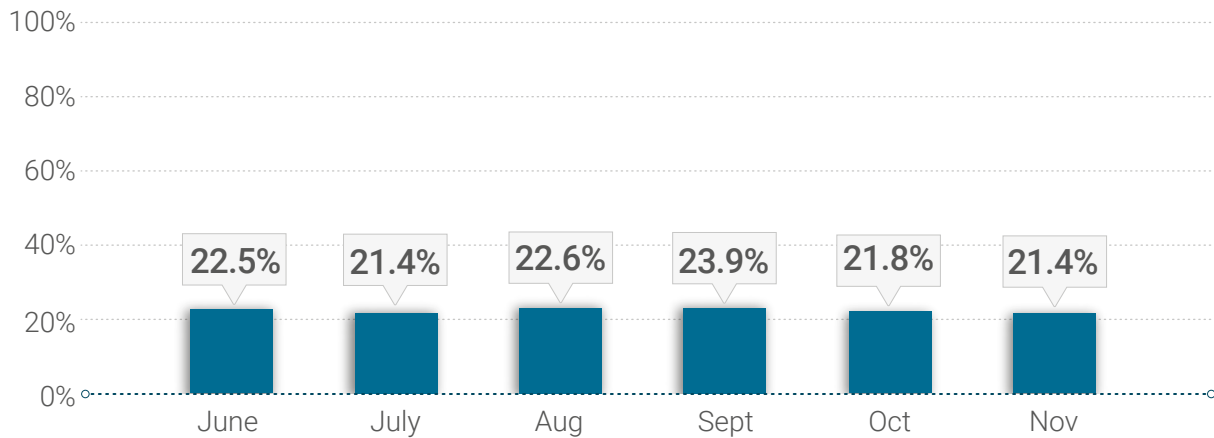
HR-2

Process performance evaluations within 30 days of due date



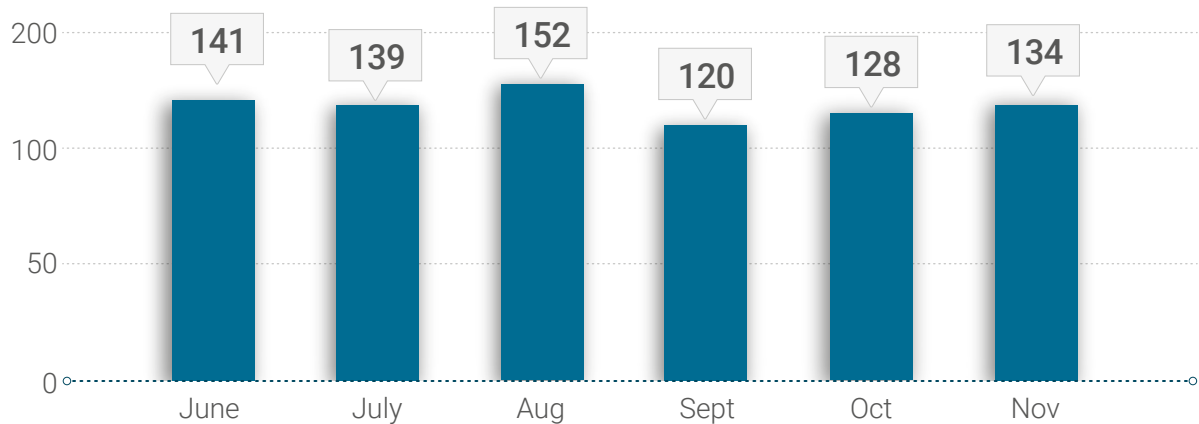
OCTC-1

Minimize number of P-1 cases in backlog



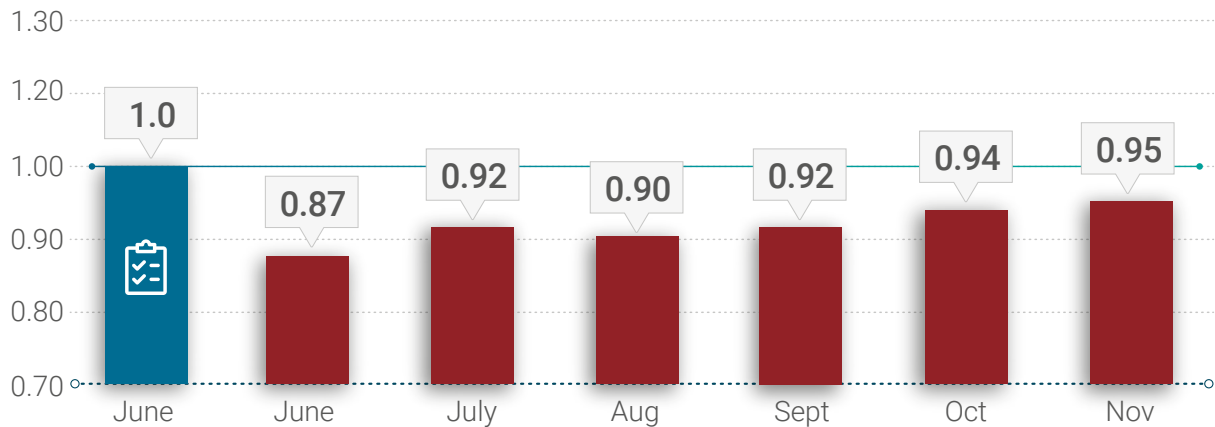
Ensure P-2 Cases are processed in an expedited fashion (median number of days)

OCTC-2



Maintain annual caseload clearance rate of at least 1.0

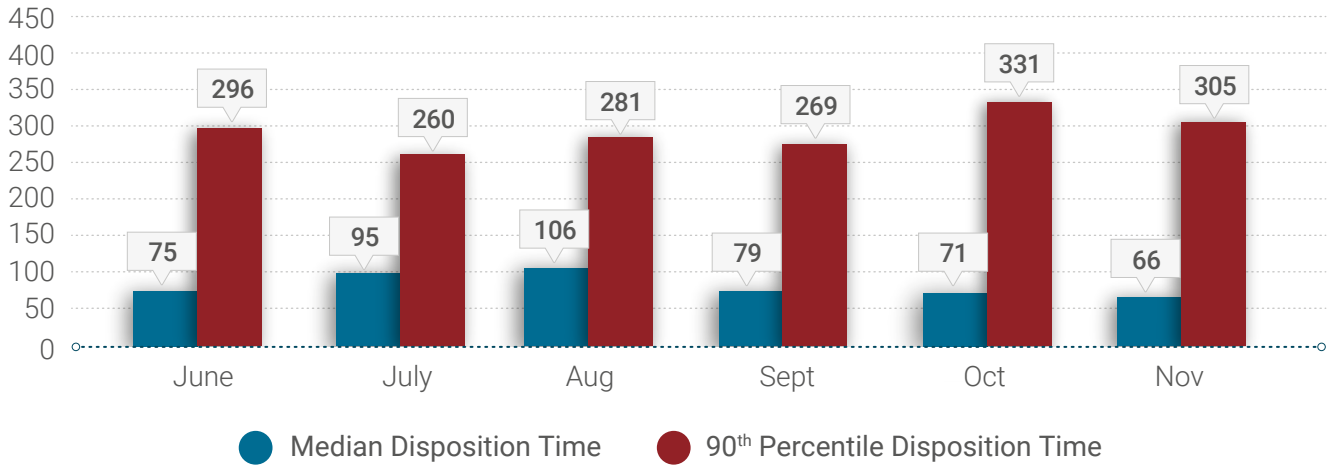
OCTC-3





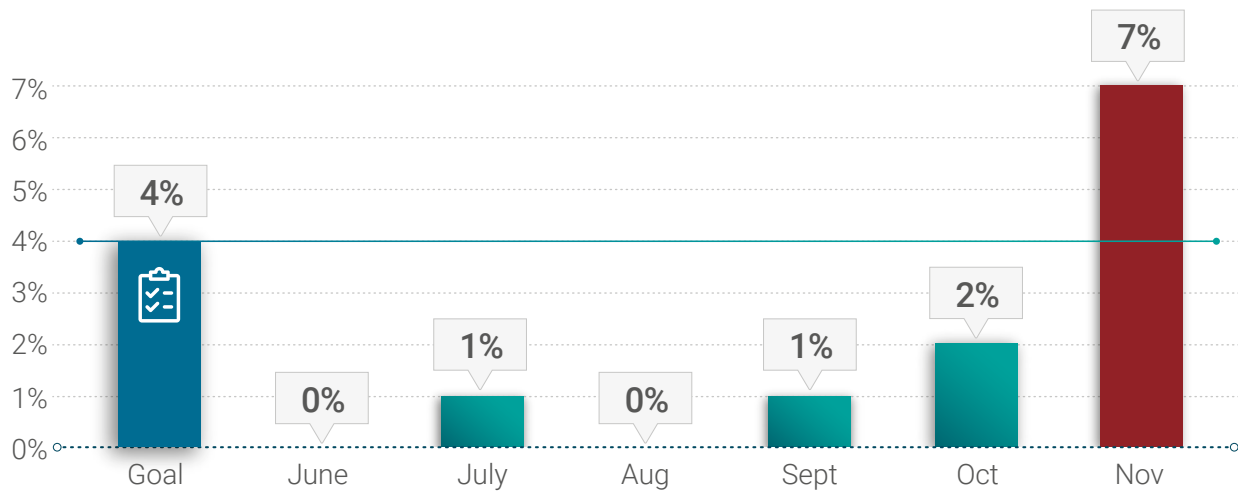
OCTC-4

Disposition Times



Maintain current level of CRU reopens for reasons other than new evidence

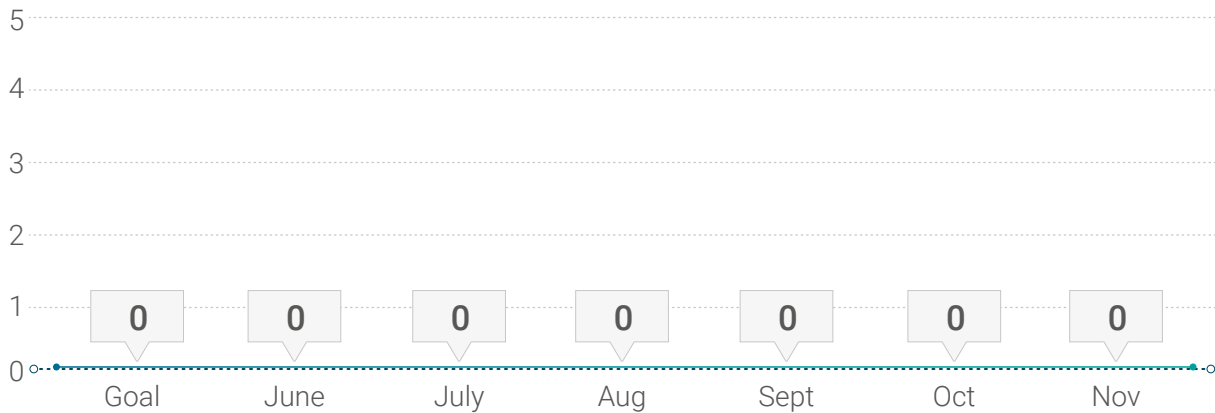
OCTC-5A





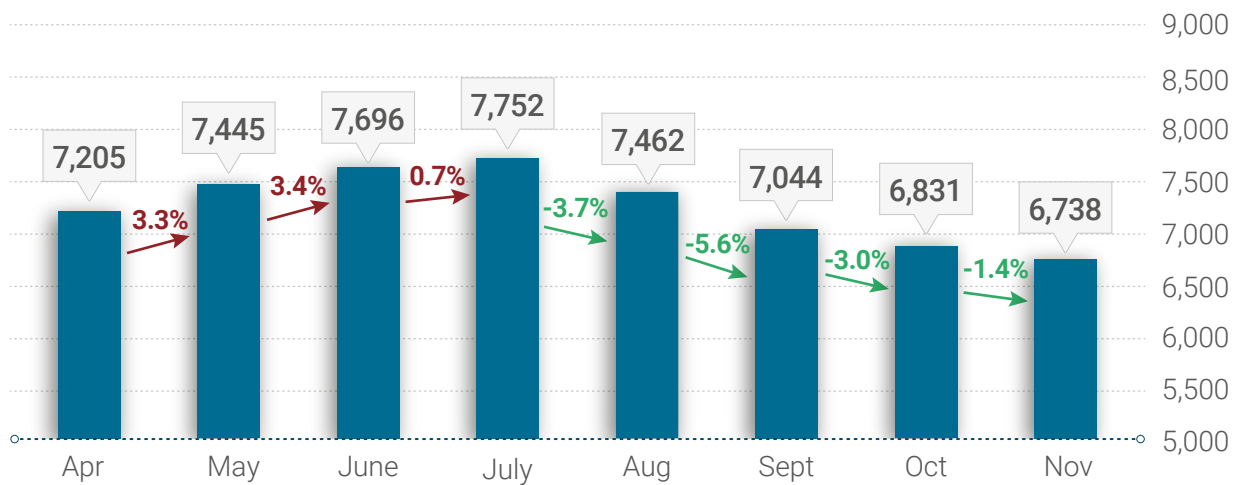
Maintain current level of Walker Petition reopens

OCTC-5B



OCTC ADR Inventory

OCTC-6





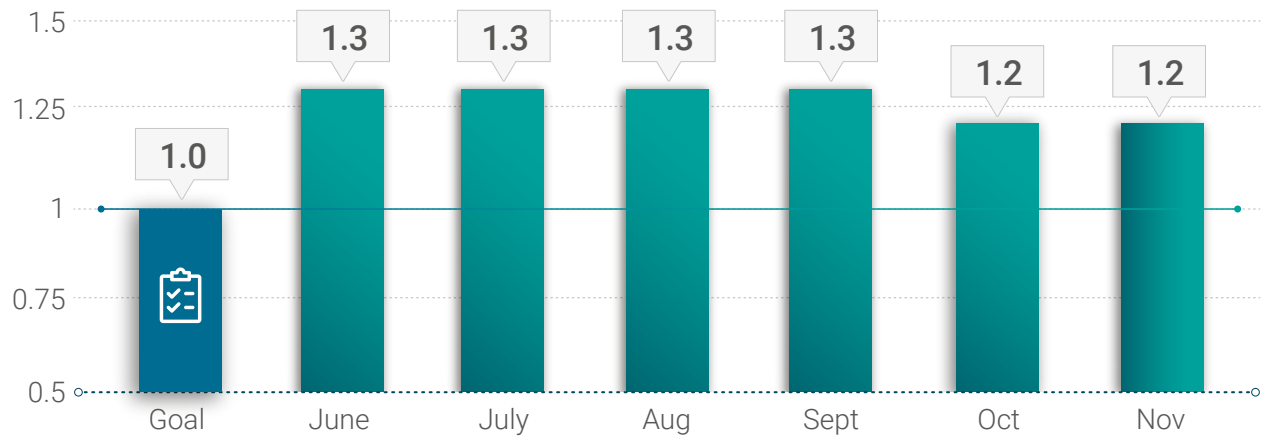
ORIA-3

95% on time distribution of discipline reports



Maintain an annual caseload clearance rate of at least 1.0

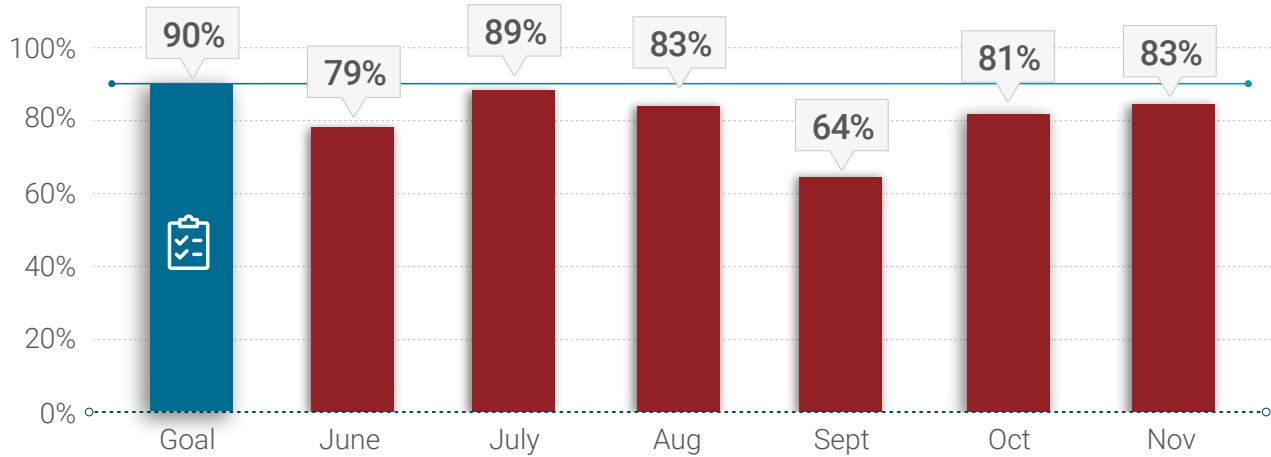
SBC-1





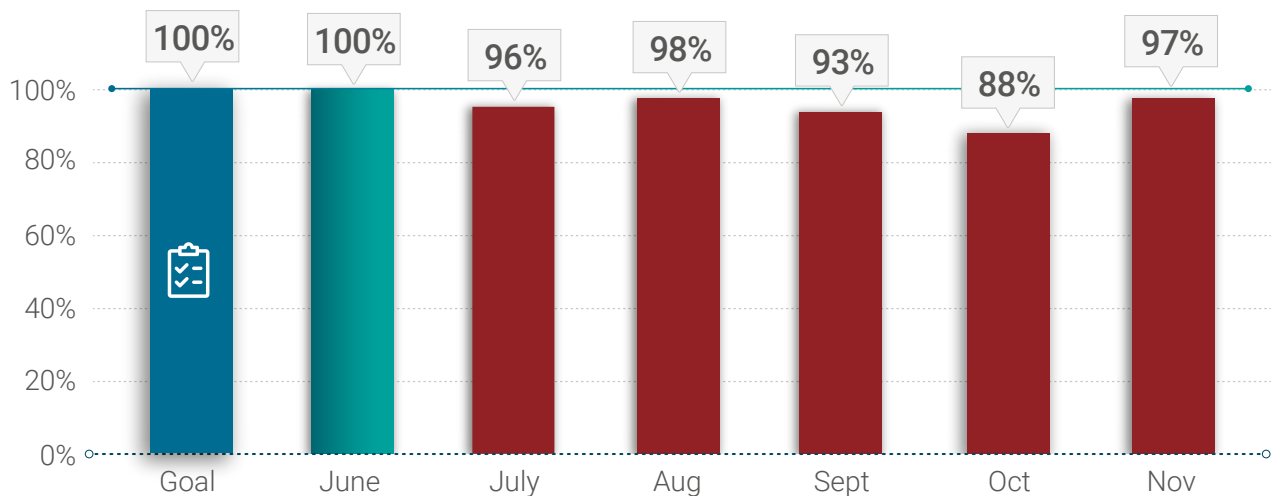
Hearing Department: 90% of cases reach final outcome within timelines

SBC-2A



Hearing Department: All cases reach final outcome within 150% of timeline requirements

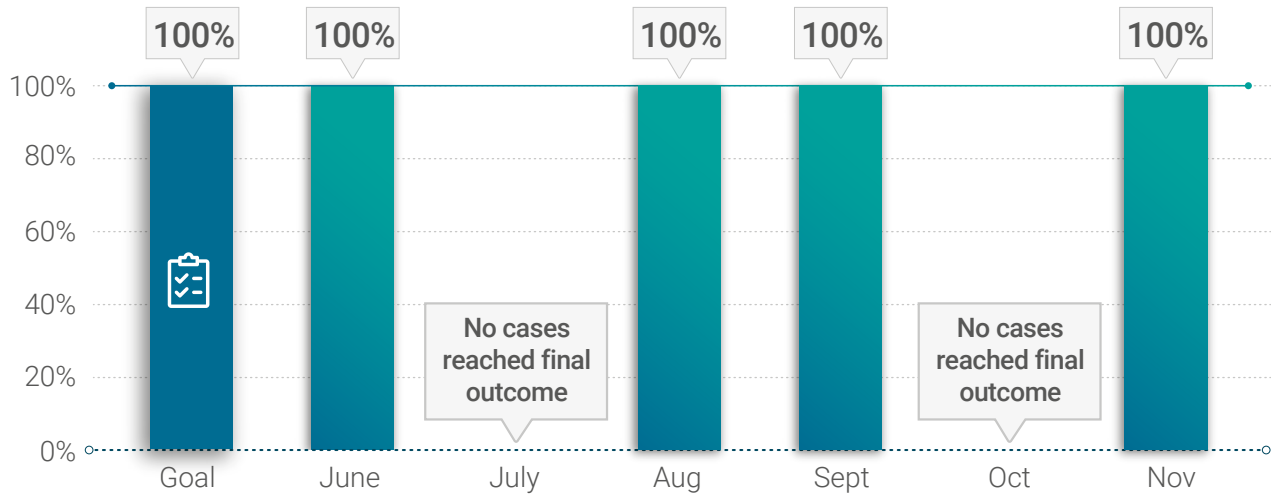
SBC-2B





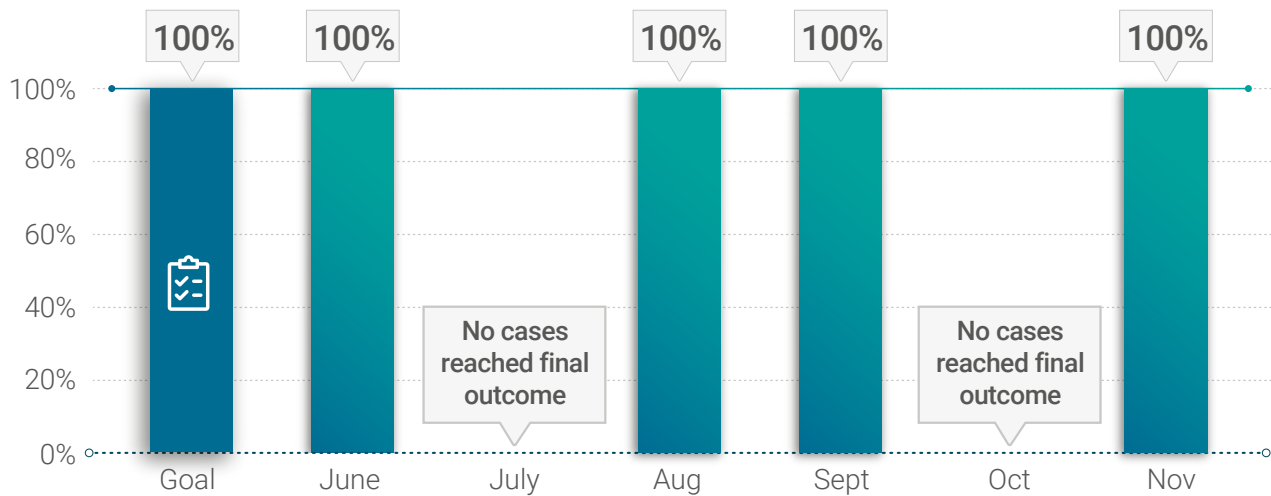
Review Department: 90% of cases reach final outcome within timelines

SBC-2C



Hearing Department: All cases reach final outcome within 150% of timeline

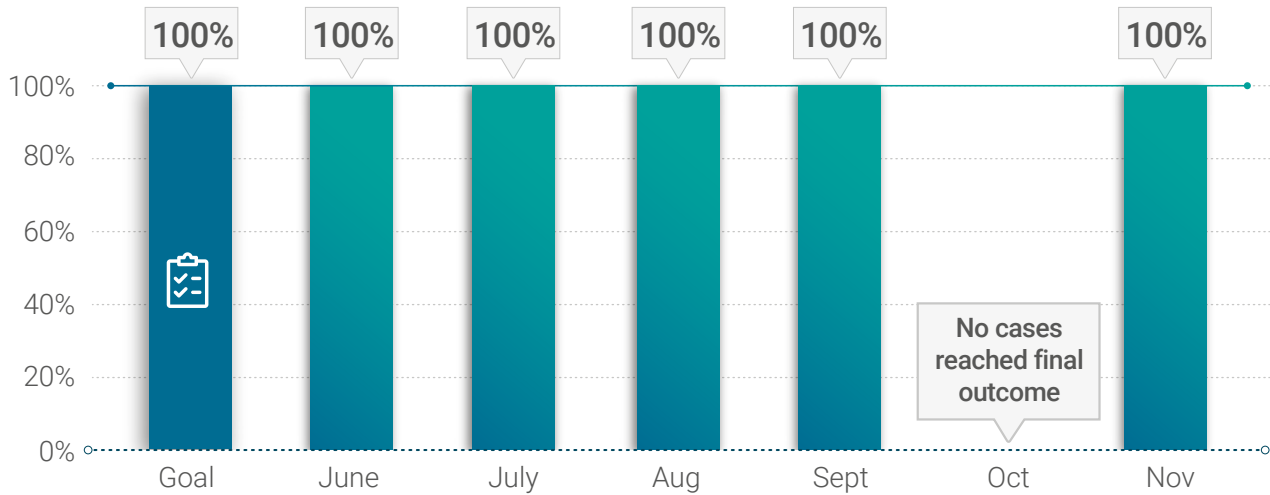
SBC-2D





Effectuations: 100% of cases processed within established timeframes

SBC-2E



Disposition Times

SBC-3

